



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 8, 1995

Ms. Jennifer Piskun
Bracewell & Patterson, L.L.P.
South Tower Pennzoil Place
711 Louisiana Street, Suite 2900
Houston, Texas 77002-2781

OR95-1199

Dear Ms. Piskun:

On behalf of the Houston Independent School District, you ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. We assigned your request ID# 36103.

The Houston Independent School District (the "district") received an open records request for certain information, including information on the development of the district's policy and procedures regarding students with dyslexia. You have submitted for our review several documents, which you describe as drafts of the district's policy. As a threshold matter, you contend that the submitted information is not subject to the Open Records Act. You also contend that sections 552.103 and 552.111 of the Government Code except the submitted documents from disclosure in their entirety. Finally, you contend that sections 552.101 and 552.107 except from disclosure a portion of one of the submitted documents.

We conclude that the submitted documents are subject to the Open Records Act. This office considered and rejected the contention that section 552.022(1) excludes from the coverage of the Open Records Act information not in a completed report. *See, e.g.*, Open Records Decision No. 407 (1984) at 3. Although section 552.022(1) refers to a "completed report" as public information, a governmental body may not withhold information it possesses merely because it is not yet a part of a completed report. Information in the possession of a governmental body is generally available to the public. Gov't Code § 552.002(a). The requested information is information in the possession of a governmental body and is therefore subject to the Open Records Act. It may be withheld from required public disclosure only if it falls within one of the exceptions enumerated in subchapter C of the Open Records Act.

We also conclude that all the requested information falls within section 552.111 of the Government Code. Section 552.111 protects internal agency communications consisting of advice, recommendations, opinions and other material reflecting the deliberative or policymaking processes of the governmental body. Open Records Decision No. 615 (1993) at 5. When a record is genuinely a preliminary draft of a document that has been released or is intended for release in a final form, the draft necessarily represents the advice, recommendations, or opinions of the drafter as to the form and content of the final document. Open Records Decision No. 559 (1990) at 2. In this case, you represent that the requested information is currently in draft form only. Although you do not indicate that you intend to release the requested information in its final form, we assume that the district routinely makes its adopted policies and procedures publicly available. Furthermore, the district's board of trustees must adopt the final version of the policy and procedures during a public meeting. See Gov't Code § 551.102. Therefore, you may withhold the draft policy and procedures under section 552.111. Because we resolve your request under section 552.111, we do not need to address the applicability of sections 552.103 and 552.107.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Margaret A. Roll
Assistant Attorney General
Open Records Division

MAR/rho

Ref.: ID# 36103

Enclosures: Submitted documents

cc: Eldo W. Bergman, Jr., M.D.
4838 Waynesboro
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(w/o enclosures)